



U.S. Department of Justice

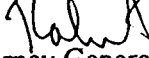
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 24, 2000

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Robert Raben 
Assistant Attorney General

SUBJECT: Weekly Report for July 24, 2000 - July 28, 2000

KEY ISSUES

Department's Response to a FOIA Request: On July 27, the House Government Reform Committee (Burton, Chair) will hold a hearing on the Department's response to a FOIA request. Richard Huff, Co-Director of the Office of Information and Privacy, John Schmidt, former Associate Attorney General, and John Hogan, former Chief of Staff to the Attorney General, will testify. (Tanner)

CI 21: On July 26, the Senate Select Committee on Intelligence (Shelby, Chair) will hold a closed hearing on intelligence matters. George Tenet, CIA Director of Central Intelligence, Rudy DeLeon, from the National Security Council, Neal Gallagher, FBI National Security Division, and you will testify. Louis Freeh, FBI Director, has also been invited to testify. (Walter)

THE WEEK AHEAD

Nominations: On July 21, the following nominations were sent to the Senate: Susan R. Bolton, Mary H. Murguia, and James A. Teilborg, all to be United States District Judges for the District of Arizona. The confirmation hearing on these nominees has been set for July 25, with Senator John Kyl chairing. The nomination of Michael Regan, to be a United States District Judge for the Southern District of Illinois, will also be on the July 25 hearing. (Scott-Finan)

Born Alive Infant Protection Act: On July 20, the House Judiciary Committee's Subcommittee on the Constitution (Canady, Chair) held a hearing on H.R. 4292, the Born-Alive Infants Protection Act of 2000, which attempts to define when fetus' are considered "born alive" at which time, under the bill they would be considered "children" or "persons." The Department did not testify. H.R. 4292 is currently circulating the Department for comment.

On July 25, the House Judiciary Committee (Hyde, Chair) will consider H.R. 4292, the Born Alive Infant Protection Act. (First)

Public Safety Cooperation Act: On July 25, the Senate Health, Education, Labor and Pensions

Committee (Jeffords, Chair) will hold a hearing on S. 1016, a bill that would require each state to create minimum collective bargaining rights for their public safety officers to use in workplace negotiations with local municipalities. (Scott-Finan)

Waco: On July 26, the Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts (Grassley, Chair) has tentatively scheduled a hearing on Senator Danforth's report. The hearing will be a continuation of the Waco investigation. Senator Danforth is currently the only witness who will be testifying. Senator Specter will preside. (Walter)

Computer Security: On July 26, the House Government Reform Committee's Subcommittee on Government Management, Information, and Technology (Horn, Chair) will conduct an oversight hearing on the challenges of providing a coordinated response to computer security threats from a national and international perspective. Edgar A. Adamson, Chief of the U.S. National Central Bureau of Interpol, will testify on behalf of the Department. (Daley)

ADA Commemoration Hearing: On July 26, the Senate Committee on Health, Education, Labor, and Pensions (Jeffords, Chair) will hold a hearing entitled "The Americans with Disabilities Act: Opening the Doors to the Workplace" to celebrate the ADA's tenth anniversary. Liz Savage of the Civil Rights Division will testify on behalf of the Department. (Ho)

Counterterrorism Program: On July 27, the House Government Reform Committee's Subcommittee on National Security, Veterans Affairs and International Relations (Shays, Chair) will conduct a hearing the FBI's Counterterrorism program. Terry Turchie, Assistant Director of the FBI's Counterterrorism Division, will testify on behalf of the Department. (Daley)

Antitrust Airline Industry Hearing: On July 27, the Senate Commerce, Science and Transportation Committee (McCain, Chair) will hold a hearing on antitrust issues in the airline industry. Assistant Attorney General of the Antitrust Division Joel Klein will testify on behalf of the Department. (Slover)

Hearing on Grand Juries: On July 27, the House Judiciary Committee's Subcommittee on the Constitution (Canady, Chair) will conduct a hearing about the rules governing and the role of grand juries. Loretta Lynch, United States Attorney of the Eastern District of New York, and James Robinson, Assistant Attorney General of the Criminal Division, will testify before the Subcommittee. (Graupensperger)

Hearing on Aviation Accidents: On July 27, the House Transportation Committee's Subcommittee on Aviation (Duncan, Chair) will conduct a hearing on the trend toward criminal prosecutions relating to airline accidents. The Department has been asked to provide a witness. (Graupensperger)

An Independent Agency to Investigate the Department: On July 27, the House Judiciary Committee's Subcommittee on Commercial and Administrative Law (Gekas, Chair) will hold a hearing on H.R. 4105, the Fair Justice Act, introduced by Congressman Traficant, which would establish an independent agency to investigate and prosecute alleged misconduct, including criminal activity, by Department officers and employees. We expect to send a panel of witnesses to express our objections to this proposal, including Associate Deputy Attorney General David Margolis, Deputy Assistant Attorney General Jack Keeney, OPR Counsel Marshall Jarrett and Howard Sribnick of the Office of the Inspector General. The FBI has not yet determined whether their OPR Counsel or any other Bureau representative will participate. (Burton)

Extraterritorial Jurisdiction Legislation: The House is expected to vote on H.R. 3380 this week. This bill would provide federal criminal law jurisdiction over crimes committed by civilians accompanying the U.S. military in foreign countries. (Graupensperger)

Campaign Finance: The Department will continue to work with Senate Judiciary Committee staff in responding to document requests and hearing follow up. (Walter)

Peter Lee: Senator Specter has not yet issued his report on the Peter Lee case but still may do so this week; Democratic members of the Senate Judiciary Committee (Hatch, Chair) plan to issue their own report at the same time. Copies of both drafts were circulated in the Department for comment. (Walter)

Loral: The Department has been asked to provide answers to questions that came up in the July 14 meeting with the Senate Judiciary Committee staff (Hatch, Chair); these are being coordinated inside the Department and with the U.S. Attorney's office for the District of Columbia, as well as with the Committee. (Walter)

THE WEEK IN REVIEW

Leak Prosecution and FISA/CIPA: On July 24, Department representatives met with the Senate Judiciary Committee staff (Hatch, Chair) to discuss questions about the CIPA provision as incorporated by the Senate Select Committee on Intelligence (Shelby, Chair) in the mark up of S. 2089, the Counterintelligence Reform Act of 2000. Copies of this marked up bill and the accompanying report have been circulated inside the Department. The Department has been asked for briefings from OIPR on questions raised by Members as part of the FISA mark up and will do so this week. (Walter)

FBI's Carnivore Program: On July 24, the House Judiciary Committee's Subcommittee on the Constitution (Canady, Chair) held an oversight hearing on Fourth Amendment issues raised by the FBI's Carnivore Program. Criminal Division Deputy Assistant Attorney General Kevin DiGregory, Criminal Division Principal Deputy Chief of the Computer Crime and Intellectual Property Section David Green, FBI Assistant Director Dr. Donald Kerr and FBI General Counsel Larry Parkinson testified on behalf of the Department. (Daley)

Nursing Homes: On July 20, staff from the Office of Legislative Affairs and the Civil Division met with staff from the Senate Select Committee on Aging (Grassley, Chair) to discuss how the Department is using the False Claims Act to combat fraud in the nursing home industry. (Pearlman)

Congressional ADA Seminar: On July 20, the Offices of Senators Harkin and Jeffords hosted a seminar on the ADA and its requirements for Congressional staff. The Department provided assistance and materials to these offices to prepare for the seminar. Further, Liz Savage of the Civil Rights Division spoke at the seminar on technical issues related to the ADA. (Ho)

Senate Judiciary Committee Markup: On July 20, the Senate Judiciary Committee (Hatch, Chair) approved the nominations of Glenn A. Fine, to be Inspector General, and Daniel Marcus, to be Associate Attorney General, by voice vote with Senator Schumer asking to be recorded as "no" on the Marcus nomination. The nomination of David W. Ogden, to be Assistant Attorney

General for the Civil Division, was approved by a roll call vote of 11-5, with 2 passes and Senator Hatch speaking in support of the nomination. The Senate Judiciary Committee approved the following nominations by voice vote: Johnnie B. Rawlinson, to be a United States Circuit Judge for the Ninth Circuit; Dennis M. Cavanaugh, to be a United States District Judge for the District of New Jersey; James S. Moody, Jr, Gregory A. Presnell, and John E. Steele, all to be United States District Judges for the Middle District of Florida. The five judges approved by the Senate Judiciary Committee on Thursday were confirmed on July 21. Senator Hatch gave a lengthy speech at the beginning of the markup responding to the President's statements on women and minorities and last week Congressional Black Caucus statements. Senator Hatch said that he disapproved of race-baiting politics and that he was personally offended that the Senate had been called racist and that it was insulting to every member of the Senate.

The Committee approved the following legislation by voice vote; S. 2812, Waiver of the Loyalty Oath for Disabled Persons; the substitute amendment to S. Con. Res. 53, a concurrent resolution condemning all prejudice against individuals of Asian and Pacific Island ancestry in the United States; the substitute amendment to S. 2516, the Fugitive Apprehension Act of 2000; S. Res. 133, a resolution supporting tolerance toward Muslims; and S. J. Res. 48, calling upon the President to issue a proclamation recognizing the 25th anniversary of the Helsinki Final Act. Senator Ashcroft stated that he had concerns about the administrative subpoena power in S. 2516. (Scott-Finan)

Disabled Naturalization Path: On July 21, the Senate passed S. 2812, a bill to allow you to waive the naturalization oath for those who are too disabled to take it. (First)

Reauthorization of DOJ: On July 19, the Office of Legislative Affairs and the Justice Management Division met with the House Judiciary Committee's majority and minority staff (Hyde, Chair) to discuss the draft bill on the reauthorization of the Department of Justice. The Office of Legislative Affairs is coordinating the review of a draft bill to reauthorize the Department that may be introduced this week. Principal areas of concern are a proposed requirement that you transfer 200 attorneys from Washington, D.C. division offices to the various United States Attorneys offices and a proposed requirement for reporting to Congress regarding large case settlements. The Office of Legislative Affairs is continuing to work closely with Judiciary Committee staff on this bill. (Owen)

Inspector General Law Enforcement Authority: On July 19, Associate Deputy Attorney General Nick Gess testified on a panel of Inspectors General before the Senate Governmental Affairs Committee (Thompson, Chair) about a Department legislative proposal to confer law enforcement authority on Presidentially appointed Inspectors General (IGs). Under the current system, the U.S. Marshal's Service processes blanket requests for such authority from IGs, which has become a significant burden on our resources and does not permit an appropriate level of supervision. We are hopeful that the Senate may attach this provision to other legislation that is moving toward the end of this session. There does not appear to be any material opposition to it either in the Committee or elsewhere, to our knowledge. (Burton)

Religious Liberty: On July 19, the Department sent a letter to Senators Hatch, Leahy and Kennedy, expressing its support of S. 2869, the "Religious Land Use and Institutionalized Persons Act of 2000." On July 21, the Office of Legislative Affairs attended a briefing on the bill for the Senate staff. The Department continues to provide technical assistance on the bill. (Owen)

Immigration: On July 19, the House Judiciary Committee (Hyde, Chair) did not take up H.R. 2883, which streamlines the process for naturalizing foreign-born adopted children and makes their citizenship retroactive to their birth, and a second bill that amends the Immigration and Nationality Act to increase the penalties for alien smuggling. We support all of this bill except the mandatory minimums it imposes. We have previously sent a views letter on this bill.

On July 20, the House Judiciary Committee's Subcommittee on Immigration and Claims (Smith, Chair) held a hearing on The Battered Immigrant Women Act, which the Department in large part supports. Barbara Strack, Acting Executive Associate Commissioner for Policy and Programs at INS, testified for the Department. H.R. 3083 restores many of the protections battered immigrants gained in the 1994 Violence Against Women Act, but lost as a result of the immigration and welfare acts passed in 1996. (First)

Prisoner Health Care Co-Pay Legislation: On July 19, the House Judiciary Committee (Hyde, Chair) approved H.R. 1349, a bill to amend title 18 U.S. Code, to combat the over utilization of prison health care services and control rising prisoner health care costs, as amended. The Committee accepted a Watt amendment which provides for an opportunity for a hearing if a prisoner wants to contest the fee, a Jackson Lee amendment which would provide advocacy groups familiar with prisons to provide insight to the Bureau of Prisons on implementation, a Rothman amendment to require notification to prisoners that they would be charged a fee for health care services, a Waters amendment on coverages for HIV/AIDS patients, and a Waters amendment requiring an assessment of health care services following the passage of the legislation compared with health care services prior to this legislation. (Scott-Finan)

DNA Grants Bill: The House Judiciary Committee (Hyde, Chair) postponed the mark up on H.R. 4640, a bill to provide grants to states to reduce backlogs of DNA samples awaiting analysis and for other related purposes. The mark up is expected to take place on July 25. (Graupensperger)

Meeting with Senator Feinstein's Office: On July 19, representatives of the Office of Tribal Justice and the Office of Legislative Affairs met with staff for Senator Feinstein to brief them on the Department's various Indian initiatives and programs in California. (Ho)

Bankruptcy: On July 18, White House officials met with Majority Leader Lott and Senators Hatch and Grassley (but no Democratic Senators) to discuss outstanding issues. According to media reports, the White House positions would be shared with the relevant parties and a response should be expected by the end of the week.

(Wilson)

FOIA EXEMPTION (b)5

Prescription Drugs: On July 18, representatives of the Associate Attorney General's Office, the Civil Division, and the Office of Legislative Affairs met with majority and minority staff from the Senate Finance Committee (Roth, Chair) to discuss anti-fraud provisions DOJ would like in the Medicare prescription drug benefit bill the Committee is currently drafting. (Pearlman)

Internet Deregulation and Web Information Privacy: On July 18, the House Judiciary Committee (Hyde, Chair) held a hearing on H.R. 1686, the Internet Freedom Act, and H.R. 1685, the Internet Growth and Development Act of 1999. The Office of Legislative Affairs attended the hearing. (Owen)

Meeting with the Offices of Senators Daschle and Johnson: On July 18, representatives of the Associate Attorney General's Office, the Office of Tribal Justice, and the Office of Legislative Affairs met with staff for Senators Daschle and Johnson to discuss CIRCLE grant developments at Pine Ridge, specifically a comprehensive strategy for addressing crime on the reservation. (Ho)

Commerce, Justice, State Senate Appropriations: On July 18, the Senate Appropriations Committee (Stevens, Chair) approved H.R. 4690, a bill to make appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2001. (Daley)

Internet Gambling Prohibition Act: On July 17, the House failed to pass H.R. 3125, the Internet Gambling Prohibition Act, under suspension of the rules. The Administration is opposed to this bill. (Daley)

Telecom Mergers: On July 17, the Department and FBI representatives briefed Senate Commerce minority staff (McCain, Chair) and Senate Commerce majority staff on these bills and the Department's concerns.

The Department will continue to work with House and Senate staff contacts on pending legislation (S. 467 and H.R. 4019), and with Commerce and the White House on briefings for Senate Commerce Committee, Science and Transportation Committee staff (McCain, Chair) on the pending Hollings telecom merger bill. (Walter)

Bellows Report: On July 17, Randy Bellows briefed the Senate Select Committee on Intelligence staff (Shelby, Chair) on FISA issues in his report; he briefed staff of the Senate Judiciary Committee (Hatch, Chair) and the Senate Governmental Affairs Committee (Thompson, Chair), along with Senator Thompson, on July 18.

Randy Bellows will brief the Senate Select Committee on Intelligence staff (Shelby, Chair) on issues other than FISA in his report on July 24. (Walter)